should be given, if possible, to both statutes since they are in pari materia. Section 486-23, in view of the provision of section 486-17, certainly cannot be construed so as to destroy the right of employes to be interested in politics as that term is understood either in its higher sense or in its commonplace meaning. To hold otherwise would be to strike a blow at that independence in political action upon which good government depends. By section 486-23, an employe is merely prohibited while in the classified service from doing certain specified things or acts which have been designated by the legislature as being opposed to the best interest of the public service, but there is no provision in that statute that prevents such employes from expressing their opinions of candidates for public offices. It is to be noted that the means to be used in expressing or communicating such opinions is not set forth in section 486-23 and in view of that fact it would seem that the legislature did not intend to limit or restrict the expression of their opinions on political matters solely to the spoken word but that every employe could express his thoughts and opinions in such matters in any of the diverse ways available. In other words, an employe in the classified service is not prohibited by section 486-23 from communicating or expressing to others his personal views concerning candidates for public office or his choice of a candidate or candidates for public office. It seems to me that the right of an employe to express his political opinions, reserved by section 486-23, may take form in many of several ways, such as placards, lapel buttons and even automobile tire covers. The fact that the carrying of a tire cover, advertising a candidate for public office, on an automobile belonging to an employe in the classified service may have a political effect and in that sense effect a political object does not, in my opinion, constitute such action as taking part in politics within the meaning of that phrase as contained in section 486-23.

I am therefore of the opinion that employes in the classified service are not taking part in politics within the meaning of that phrase as used in section 486-23 when carrying tire covers on their automobiles which have printed thereon the name of a candidate for public office, the party ticket on which the name of the candidate appears and the date of the election.

Respectfully,

JOHN W. BRICKER,

Attorney General.

715.

BANKS—CONSERVATOR—AUTHORIZED TO BORROW FROM RECONSTRUCTION FINANCE CORPORATION TO SECURE PARTICULAR DEPOSIT WHEN—MAY BORROW TO SATISFY WITHDRAWALS OF PUBLIC FUNDS—MAY BORROW TO PURCHASE SECURITY PLEDGED BY BANK FOR REPAYMENT OF FUNDS DEPOSITED WITH DEPOSITORY—MAY PERMIT PARTIAL WITHDRAWAL OF PUBLIC DEPOSIT WHEN.

SYLLABUS:

1. *A conservator appointed by virtue of section* 710-88a, *G. C. (H. B.* 661, 90th *General Assembly), is authorized to borrow from the Reconstruction Finance*

Corporation upon collateral security pledged by the bank under his control to secure a particular deposit when all of the funds obtained by means of such borrowing are to be applied to the liquidation of such deposit liability in whole or in part.

2. *Such conservator is authorized to borrow upon other and presently unpledged assets of the bank under his control for the purpose of providing funds with which to satisfy withdrawals of public funds where he deems the securities pledged by the bank with the public depositor to be of a value in excess of the amount of the deposit.*

3. *When a public depositor has declared a default in the depository agreement and offers for sale the securities pledged by the bank for the repayment of the funds deposited with the depository, the conservator of a depository may, if he deems such security of greater value than the sale price to his estate, purchase such security at such sale and may borrow funds for such purposes.*

4. *The conservator is authorized to permit the withdrawal of a part but less than the whole amount of a public deposit upon the surrender to the conservator by the depositor of part of the collateral pledged to the depositor, which part, in the opinion of the conservator, has a value equivalent to or in excess of the amount of the deposit permitted to be withdrawn.*

COLUMBUS, OHIO, April 25, 1933.

HON. I. J. FULTON, *Superintendent of Banks, Columbus, Ohio.*

DEAR SIR:—I have your letter of recent date requesting my opinion on the following questions:

> 1. Is the Conservator authorized to borrow from the Reconstruction Finance Corporation upon collateral consisting of securities pledged by his bank for a particular deposit, all the funds obtained by means of such borrowing to be applied to the liquidation of the deposit liability in whole or in part?
>
> 2. Is the Conservator authorized to borrow upon other and presently unpledged assets of his bank for the purpose of providing funds with which to satisfy withdrawals of public funds, where according to the terms of departmental letter such withdrawals in full would be proper but where the Reconstruction Finance Corporation will not loan upon the securities pledged for the particular fund an amount sufficient to permit the withdrawal of the fund in full?
>
> 3. In the event of an attempt on the part of the pledgee to sell under the terms of the pledge agreement between the bank under conservatorship and the pledgee the securities pledged as collateral, and where in the opinion of the Conservator the value of the collateral pledged is not sufficient to warrant the Conservator in permitting the withdrawal of the deposit, is the Conservator authorized to bid upon the offering for sale of such collateral an amount which in his opinion he is justified in paying for the collateral, thereby preventing the sale of the collateral for an amount less than its reasonable value; and is the Conservator authorized to borrow upon presently unpledged assets of his bank for the purpose of providing funds with which to purchase pledged assets so offered for sale by the pledgee?
>
> 4. Is the Conservator authorized to permit the withdrawal of a

> *part but less than the whole of a public fund upon the surrender to the* Conservator by the depositor of a part of the collateral pledged to the depositor, which part, in the opinion of the Conservator, has a value equivalent to or in excess of the amount of the deposit permitted to be withdrawn?"

The authority for the appointment of conservators by the Superintendent of Banks is found in section 710-88a (H. B. No. 661, 90th General Assembly). A conservator being a public officer, has only those powers and duties specifically prescribed by statute, together with those necessarily implied therefrom. *Peter* vs. *Parkinson,* 83 O. S. 36; *Elder* vs. *Smith,* 103 O. S. 369.

Section 710-88a provides relative to the powers of conservators:

> "* * * The conservator so appointed shall take possession of the business and property of such bank and under the supervision of the superintendent and subject to such limitations as the superintendent may from time to time impose, shall have and exercise in the name and on behalf of such bank all the rights, powers and authority of the officers and directors of such bank and all voting rights of the shareholders thereof and may continue its business in whole or in part with a view to conserving its business and assets pending further disposition thereof as provided by law. Nothing herein contained shall be so construed as to vest title to any of the assets of such bank in the conservator so appointed.
>
> * * *"

From the language of this section, it would appear that the conservator occupies a somewhat anomalous position, in that he has no title to the assets of the bank, but has the authority pursuant to such section to exercise such powers concerning the business of the bank as could be exercised by the officers or directors of the bank; and, in addition, has the right to exercise certain powers which the stockholders could exercise by means of their right to vote. However, the exercise of such powers is subject to limitations imposed by the Division of Banks. It is apparent from the language of section 710-95a, (114 O. L. Pt. 2, 37) that the liquidator would have the right to borrow money from the Reconstruction Finance Corporation and pledge the assets of the bank for the purposes suggested in your inquiry. However, a conservator is not a liquidator, and his powers are derived exclusively from the provisions of sections 710-88a, et seq., General Code.

It is elemental that from the nature of a bank the officers and directors of a bank would have the authority to pay to the public depositor moneys due such depositor and take a reconveyance of the securities pledging the payment of such obligation. It is also elemental that the bank, acting through its board of directors, has the authority to borrow money and to pledge the assets of the bank, when necessary, for the furtherance of the purposes of the bank. It would therefore appear that unless prevented by the regulations prescribed by the Superintendent of Banks, the conservator would have the authority to borrow money and secure the repayment of the same by pledge of assets of the bank and from the proceeds of such loan pay the obligation due to the public depositor when it is made to appear that such transaction would preserve the assets of the bank, or would enhance

the gross value of the estate. In my opinion, your first and second questions should be answered in the affirmative. It would appear to me to be immaterial whether the loan from the Reconstruction Finance Corporation would be secured by unpledged assets or would be secured in whole or in part by assets released from pledge by payment of funds procured by means of proceeds derived from a loan from the Reconstruction Finance Corporation.

In reply to your third inquiry, subject to the limitations imposed by the Superintendent of Banks, it would appear from the language of section 710-88a, supra, that if in the opinion of the conservator it would be for the best interest of the estate or that the estate would be enhanced by the purchase of the pledged assets, or a part thereof, he would have the authority to purchase such assets as were considered beneficial. By reason of my opinion with reference to your first and second inquiries, it necessarily follows that, in my opinion, the conservator has the authority to borrow money for such purpose and to pledge the assets of the bank for such purpose. In my opinion, your third inquiry should be answered in the affirmitive.

In reply to your fourth inquiry, I am expressing no opinion as to the authority of the municipality or other public depositor to release a portion of the collateral or other securities deposited with it for the purpose of securing the return of the funds placed in a depository. Such question is not presented by your request. Being of the opinion, as set forth above, that the conservator has the authority to permit the withdrawal of the whole of a fund deposited with the bank as public depository, it becomes self-evident that the conservator would have like authority to permit the withdrawal of any part thereof, provided, however, that at least a proportionate amount of the securities deposited by the bank for the purpose of securing the return of such funds to the public depositor are at the same time released to the bank; and providing further that good faith is used in the transaction by the public depositor and the conservator; that is, it is not to be supposed that the conservator would permit a withdrawal of $100,000 and at the same time receive a return of securities having a par or face value of $110,000, but having an actual value of $50,000, and permitting the good securities to remain with the depositor.

It is therefore my opinion that each of your inquiries should be answered in the affirmative. For the purposes of this opinion I have assumed that the public deposits referred to in your inquiry are secured only by the deposit of securities and not in part by surety bond. I therefore express no opinion concerning a state of facts where the deposit is secured in part by surety bond and in part by securities.

Respectfully,
JOHN W. BRICKER,
Attorney General.

716.

APPROVAL, BONDS OF TRUMBULL COUNTY, OHIO—$10,000.00

COLUMBUS, OHIO, April 25, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.